

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

INTERNATIONAL UNION OF PAINTERS	:	CIVIL ACTION NO. 05-3046 (MLC)
AND ALLIED TRADES DISTRICT	:	
COUNCIL 711 HEALTH & WELFARE,	:	<b>MEMORANDUM OPINION</b>
VACATION, AND APPRENTICE FUNDS,	:	
et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
D.B. COCHRAN & SONS, INC.,	:	
et al.,	:	
	:	
Defendants.	:	
_____	:	

**THE COURT** having issued an order to show cause why the complaint should not be dismissed for (1) failure to comply with Federal Rule of Civil Procedure ("Rule") 4(m), and (2) lack of prosecution under Rule 41(b) and Local Civil Rule 41.1(a) (dkt. entry no. 2); and it having appeared the plaintiffs had failed to serve the defendants within 120 days after filing the complaint; and the Court advising the plaintiffs that the Court intended to dismiss the complaint unless the plaintiffs (1) showed good cause for this failure, or (2) established that service was effected within the 120-day period, see Fed.R.Civ.P. 4(m); and the Court, as required, having notified the plaintiffs of the intention to dismiss the complaint on this ground, see Liu v. Oriental Buffet, No. 04-2850, 2005 WL 1394939, at \*2 (3d Cir. June 14, 2005); and

**IT HAVING APPEARED ALTERNATIVELY** that the action had been pending for more than 120 days without the plaintiffs taking any proceedings; and the Court advising the plaintiffs that the Court intended to dismiss the complaint unless good cause was shown for the lack of prosecution, see L.Civ.R. 41.1(a), see also Fed.R.Civ.P. 41(b) (stating complaint may be dismissed for failure to prosecute); and the Court being authorized to impose harsh penalties when enforcing the Local Civil Rules, see Kabacinski v. Bostrom Seating, No. 03-1986, 2004 WL 628867, at \*3 n.3 (3d Cir. Mar. 30, 2004), United States v. 11 Vehs., Their Equip. & Accessories, 200 F.3d 203, 214 (3d Cir. 2000); and

**THE PLAINTIFFS** failing to respond to the Court's inquiry; and thus the Court intending to dismiss the complaint; and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge